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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/039,668
Filing Date: December 31, 2001
Appellant(s): EDGE, CHRISTOPHER J.

MAILED

MAR 06 2006

Technology Center 2600

Mark G. Bocchetti
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 15, 2005 appealing from the Office action mailed February 9, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Claims 1, 2, 7, 8, 19, 51, 52, 55, 56, 59 and 60 stand rejected under 35 USC 102(e) as being anticipated by U.S. Patent 6,750,992 to Holub (hereinafter "Holub").

Claims 3-6, 9-18, 20-50, 53, 54, 58, and 61-74 stand rejected under 35 USC 103(a) as being unpatentable over Holub and U.S. Patent 5,739,809 to McLaughlin et al (hereinafter "McLaughlin")

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,750,992	Holub	6-2004
5,739,809	McLaughlin	4-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 2, 7, 8, 19, 51, 52, 55, 56, 57, 59 and 60 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,750,992 to Holub.

In reference to claims 1 and 19, Holub teaches a computer that specifies one or more view conditions for an image (figure 3A and column 12, lines 10-19); and a view station (node 100) that receives the image and the viewing conditions from the computer and displays the image subject to satisfaction of the viewing conditions at the viewing station (column 9, lines 16-25).

In reference to claim 2, Holub also teaches a system with the viewing conditions comprise calibration information indicating a required calibration state of a display device associated with the viewing station (column 9 and lines 42-44 and lines 56-58).

In reference to claim 7, Holub teaches that the viewing conditions include information specifying one or more sharpening techniques to be applied at the view station (column 9, lines 1-7).

In reference to claim 8, it can be seen from figure 9c and the its description on column 26 starting line 30, Holub teaches the new coordinate mapping using the hypercube.

In reference to claims 51 and 52, Holub teaches a soft proofing system with a display device at the viewing station with conspicuous marking indicating that the image is not verified when the viewing conditions have not been satisfied at the viewing station (column 47, lines 23). Users can annotate the images accordingly during verified and un-verified viewings.

In reference to claim 55, Holub teaches in the disclosure that his system includes several networked viewing stations (“nodes” column 8, line 11), where the view stations receives the image and view conditions and display the image subject the view conditions being satisfied at the view stations (column 8, lines 16-24).

In reference to claims 56 and 59, Holub teaches a system wherein the viewing conditions specify a specific color profile, and wherein the viewing station satisfies the viewing conditions by applying the specific color profile for preparation of the image (column 8, lines 16-24).

In reference to claims 57 and 60, Holub teaches a system wherein the viewing conditions specify a specific cyan-magenta-yellow-black (CMYK) proof simulation, and wherein the

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viewing station satisfies the viewing conditions by applying the specific (CMYK) proof simulation (column 18, lines 35-40).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-6, 9-18, 20-50, 53, 54, 58, and 61-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Holub and US Patent 5,739,809 to McLaughlin et al.

Holub teaches a system that allows for soft proofing however he does not go into deep detail about the specifics of calibration GUI on each view station. McLaughlin however, is an invention that addresses the deficiencies of Holub's invention. The combination of the two inventions is justified in the sense that Holub's invention describes a general system and McLaughlin concentrates on the individual viewing station (node).

It would have been obvious to one skilled in the art to combine the two inventions because McLaughlin's viewing display is directly designed to work in soft proofing systems.

In reference to claims 3 and 4, Holub teaches on column 9, lines 56-59 that his system implements continuous calibration. Holub however does not go into detail about how to implement his ongoing calibration.

McLaughlin on the other hand teaches a proofing viewing station that specifies a maximum amount of time or prompts the user to calibrate the system within that period of time (column 8, lines 12-25).

Holub's invention could be modified to resemble the claimed invention by including a time limited on the frequency of recalibration as taught by McLaughlin.

Holub states that his system includes ongoing calibration, however he is silent on exactly how often calibration occurs. It would have been obvious to one skilled in the art to set a maximum amount of time to calibrate in order to reduce the number of unnecessary calibration iterations.

In reference to claim 5, it can be seen from column 6, lines 35-40 of McLaughlin that the view station automatically prompts the use to calibrate the display device to view the image.

In reference to claim 6, Holub teaches a system that is similar to the claimed invention. However, as mentioned before, Holub's invention discusses a general system and fails to include details regarding the details of the viewing station. In the case of claim 6, Holub does not teach the restricting of the view station.

McLaughlin, in column 6, lines 35-48, teaches that there must be an initial preparation period (i.e. warm-up period). McLaughlin does not explicitly state that the image will be restricted, however the disclosure implies that the initial warm-up/configuration parameters need to be set before the display can be used for images. The examiner believes that such an assertion is correct as in figure 2, the figure displays the initial setup of the display a restrictive graphic during load up time.

Again McLaughlin's invention can be combined with Holub's by including McLaughlin's soft-proofing system into the general proofing system as described by Holub.

It would have been obvious to one skilled in the art to include the restricting limitation to the viewing station as Holub explains throughout his disclosure, it is essential to a soft proofing

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system to have correct equipment calibration; by restricting the display (as taught by McLaughlin) the user would be clearly informed that the system has not yet been properly calibrated.

In reference to claims 9 and 10, Holub teaches a proofing system however again the details of the view station are neglected his disclosure. Specifically, Holub does not explicitly teach a viewing station that does not permit modification of the view station (claim 9) nor a “locked station” state (claim 10).

However, in reference to claim 9, McLaughlin discloses that the view station does not permit modification of the view conditions (column 3, lines 40-49). In reference to claim 10, McLaughlin’s invention notifies the user when the viewing station enters or exits a “locked station” status (column 7, lines 51-65).

Again McLaughlin’s invention can be combined with Holub’s by including McLaughlin’s soft-proofing system into the general proofing system as described by Holub.

It would have been obvious to one skilled in the art to include the restricting limitation to the viewing station as Holub explains throughout his disclosure, it is essential to a soft proofing system to have correct equipment calibration; locking the calibration status of a display (as taught by McLaughlin) would eliminate the inadvertent changes in the calibration parameters each view station.

In reference to *independent* claims 11, 21 and 27, Holub teaches a computer readable medium carrying program code that when executed receives input as a computer specifying view conditions for an image (Column 13, lines 24-28). His invention sends the image and viewing conditions from the computer to the viewing station (nodes 100). Similarly, in McLaughlin’s

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reference on column 6, lines 1-16, McLaughlin teaches that data code is used to determine these different calibration criteria. As explained in the rejection of claim 6, Holub's invention receives an image and viewing conditions for the image from a computer and McLaughlin viewing station makes sure that the displays are calibrated before the image is displayed.

Claim 12 is rejected on the grounds presented in the rejection of claim 2.

Claims 13 and 14 are rejected on the grounds presented in the rejection of claims 3 and 4.

Claim 15 is rejected on the grounds presented in the rejection of claim 5.

Claims 16 and 17 are rejected on the grounds presented in the rejection of claim 6.

Claim 18 is rejected on the grounds presented in the rejection of claim 8.

Claim 20 is rejected on the grounds presented in the rejection of claim 9.

In light of the rejection of claims 21 and 27 with the limitation of "computer readable medium carrying program code executed at the view station," anticipated by both Holub and McLaughlin, it is clear that in claims 22-31, the program code is what allows for the calibration process as described in each claim.

In reference to claims 22-24, it can be seen in column 8, lines 12-17 that McLaughlin's invention can either automatically calibrate the display system or prompt the user to calibrate the system during a period of time.

In reference to claims 25 and 26 are rejected on the grounds presented in the rejection of claim 8.

In reference to claim 28, McLaughlin teaches a program code that limits the access to the user calibration panel so that the viewing conditions cannot be changed (column 3, lines 40-49).

In reference to claim 29, McLaughlin teaches that the view conditions comprises of information indicating the required calibration state of the display (column 3, lines 50-67).

Claim 30 is rejected on the grounds presented in the rejection of claim 8.

Claim 31 is rejected on the grounds presented in the rejection of claim 7.

Claim 32 is rejected essentially on the grounds presented in the rejection of claims 11, 21 and 27. In reference to the added limitation of “a readable medium storing an image file that includes image data and view conditions for the image file”, Holub teaches in column 9, line 2-6 that “data and file structures along with procedure which specifically address accurate color sensing and rendition in a networked environment.”

In reference to claim 33, Holub teaches in column 9, lines 41-44 that the viewing conditions comprise calibration information indicating a required calibration state of a display device associated with the view station.

Claim 34 is rejected on the grounds presented in the rejection of claim 6.

Claim 35 is rejected on the grounds presented in the rejection of claim 7.

In reference to claim 36, teaches an image file includes enabling data that can enable and disable the viewing conditions, wherein access to the image data at the viewing station is restricted by the image when the viewing conditions have not been satisfied and the enabling data enables the viewing conditions, and wherein access to the image data is not restricted at the viewing station when the enabling data disables the viewing conditions (column 9, 34-45).

In reference to claim 37, McLaughlin teaches on column 3, lines 41-49 access conditions where only administrators can change viewing conditions.

Claim 38 is rejected on the reasoning presented in the rejection of claims 11 and 6.

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Claim 39 is rejected on the grounds presented in the rejection of claim 4.

Claim 40 is rejected on the grounds presented in the rejection of claim 3.

In reference to claim 41, it can be seen from McLaughlin column 8, lines 26-30, that his view station restricting calibration procedure of the display device when the display device has not been turned on for an acceptable amount of time such that the calibration procedure can only be performed on the display device one the display device has been turned on for the acceptable amount of time (column 6, lines 35-41).

Claim 42 is rejected on the grounds presented in the rejection of claim 6.

Claims 43 and 44 are rejected on the reasoning presented in the rejection of claims 21, 27 and 6.

In reference to claims 45, 46, 48 and 49, are rejected on the grounds presented in the rejection of claim 6.

In reference to claim 47, Holub teaches on column 47, line 23 that annotating the soft proof is an option provided by the system.

Claim 50 are rejected on the grounds presented in the rejection of claim 7.

Claims 53 and 54 are rejected largely on the arguments supplied in the rejection of claim 6. The added limitation of “a compute readable medium storing a folder of image and meta data file associated with the folder, wherein the meta data file includes viewing conditions for all images in the folder (column 25, lines 36-45).

In reference to claims 61, 63, 65, 67, 69, 71, and 73, Holub teaches a system wherein the viewing conditions specify a specific color profile, and wherein the viewing station satisfies the

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viewing conditions by applying the specific color profile for preparation of the image (column 8, lines 16-24).

In reference to claims 57, 58, 62, 64, 66, 68, 70, 72, and 74, Holub teaches a system wherein the viewing conditions specify a specific cyan-magenta-yellow-black (CMYK) proof simulation, and wherein the viewing station satisfies the viewing conditions by applying the specific (CMYK) proof simulation (column 18, lines 35-40).

(10) Response to Argument

In regards to the first grounds of rejection of 35 USC 102(e) of claims 1, 2, 7, 8, 19, 51, 52, 55, 56, 59 and 60, Appellant argues where Holub fails to disclose or suggest “specifying viewing conditions for an image”. Holub discloses in col. 12, lines 32-39, a video screen which is useful for soft proofing and may be high resolution, and displays images specified by nodes. Therefore, it is shown where Holub discloses where the nodes specify viewing conditions for an image for display. Appellant further, argues where the specified viewing conditions are particular to an image or set of images. This limitation of “are particular to an image or set of images” is not claimed by the appellant.

Appellant argues where Holub fails to disclose calibration information for the image. The limitations of claim 2, state, “ wherein viewing conditions comprise calibration information indicating a required calibration state of a display device associated with the view station”. As shown, Appellant does not claim where the calibration information is for the image, but where the calibration information indicates a required calibration state of the display device, which is disclosed by Holub in column 3, lines 50-67.

Appellant argues where Holub fails to disclose the viewing conditions include information specifying one or more sharpening techniques. Holub discloses in col. 9, lines 1-7, where the invention of Holub incorporates improved data and file structures along with procedures and a user interface, which specifically address accurate color sensing and rendition, therefore teaching sharpening techniques.

Appellant argues where Holub fails to disclose displaying an image with a conspicuous marking. Holub discloses in col. 47, lines 1-33 wherein the images are annotated, thus disclosing conspicuous markings.

In regards to the second grounds of rejection of 35 USC 103, Holub in view of McLaughlin over claims 3-6, 9-18, 20-50, 53, 54, 58, and 61-74, Appellant argues wherein Holub and McLaughlin fail to disclose where a viewing station be restricted when viewing conditions are not satisfied. McLaughlin discloses in col. 6, lines 35-48 where there is an initialization of the display such as configuration parameter, which are set before images can be displayed. Therefore, McLaughlin discloses where the viewing station is restricted.

Appellant argues where Holub and McLaughlin do not teach restricting view of an image when the display device has not been turned on for an acceptable amount of time. McLaughlin discloses in col. 6, lines 35-46 where the initial warm-up/configuration parameters are to be set prior to viewing of an image. The initial “turn-on” reads upon an acceptable amount of time. Further, the examiner notes where the phrase “acceptable amount of time” is broadly interpreted to teach a split second of time. Therefore, McLaughlin discloses an acceptable amount of time.

As shown above, the prior art Holub in view of McLaughlin teach each limitation of the claims set forth by the instant application.


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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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